

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 9. HEALTH SERVICES

#### CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

[R08-308]

#### PREAMBLE

**1. Sections Affected**

R9-22-1902  
R9-22-1903  
R9-22-1904  
R9-22-1905  
R9-22-1907  
R9-22-1908  
R9-22-1909  
R9-22-1909  
R9-22-1910  
R9-22-1911  
R9-22-1912  
R9-22-1913  
R9-22-1914  
R9-22-1915  
R9-22-1916  
R9-22-1917  
R9-22-1919  
R9-22-1920

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Repeal  
New Section  
Repeal  
Repeal  
Repeal  
Amend  
Repeal  
Amend  
Repeal  
Repeal  
Amend  
Repeal

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 36-2901, 36-2903.01(F)

Implementing statute: A.R.S. §§ 36-2903.01(F), 36-2929

**3. A list of all previous notices appearing in the *Register* addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 3501, September 5, 2008

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mariaelena Ugarte

Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson St., Mail Drop 6200  
Phoenix, AZ 85034

Telephone: (602) 417-4693

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

**Notices of Proposed Rulemaking**

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Administration proposes the following changes to this rulemaking as recommended and approved by the Governor's Regulatory Review Council on August 5, 2008, in a Five-year Review Report.

**6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, and the Administration will be minimally impacted by the changes to the rule language. The areas requiring revision are for clarity as a result of a Five-year Rule Review approved by the Governor's Regulatory Review Council.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson St., Mail Drop 6200  
Phoenix, AZ 85034  
  
Telephone: (602) 417-4693  
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Proposed rule language will be available on the AHCCCS web site [www.azahcccs.gov](http://www.azahcccs.gov) the week of September 15, 2008. Please send written comments to the above address by 5:00 p.m., November 10, 2008. E-mail comments will also be accepted during this time-frame.

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: November 10, 2008

Time: 10:00 a.m.

Location: AHCCCS  
701 E. Jefferson St.  
Phoenix, AZ 85034

Nature: Public Hearing

Date: November 10, 2008

Time: 10:00 a.m.

Location: ALTCS: Arizona Long-term Care System  
1010 N. Finance Center Drive, Suite 201  
Tucson, AZ 85710

Nature: Public Hearing

Date: November 10, 2008

Time: 10:00 a.m.

Location: ALTCS: Arizona Long-term Care System  
3480 E. Route 66  
Flagstaff, AZ 86004

Nature: Public Hearing

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ADMINISTRATION**

**ARTICLE 19. FREEDOM TO WORK**

Section

- R9-22-1902. General Administration Requirements
- R9-22-1903. Application for Coverage
- R9-22-1904. Notice of Approval or Denial
- R9-22-1905. Reporting and Verifying Changes
- R9-22-1907. Notice of Adverse Action Requirements
- R9-22-1908. Request For Hearing
- R9-22-1909. ~~Social Security Number~~ Conditions of Eligibility
- R9-22-1910. ~~State Residency~~ Repealed
- R9-22-1911. ~~Citizenship and Immigrant Status~~ Repealed
- R9-22-1912. ~~Age~~ Repealed
- R9-22-1913. Premium Requirements
- R9-22-1914. ~~Income~~ Repealed
- R9-22-1915. Institutionalized Person
- R9-22-1916. ~~Non Payment of Premium~~ Repealed
- R9-22-1917. ~~Applicant and Member Responsibility~~ Repealed
- R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group
- R9-22-1920. ~~Premium Amount~~ Repealed

**ARTICLE 19. FREEDOM TO WORK**

**R9-22-1902. General Administration Requirements**

The Administration shall comply with the confidentiality rule under ~~R9-22-1501(B)~~ and Title VI compliance rule under ~~R9-22-1501(M)~~. Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified. R9-22-512(C).

**R9-22-1903. Application for Coverage**

- A. A person may apply by submitting a signed ~~an~~ application to an Administration office.
- B. The application date is the date the application is received at an Administration office or outstation location approved by the Director.
- C. The provisions in ~~R9-22-1405(B), (C) and (E)~~ R9-22-1406(B) and (D) apply to this Section.
- D. The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

**R9-22-1904. Notice of Approval or Denial**

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

- 1. If approved, the notice shall contain:
  - a. The effective date of eligibility,
  - b. The amount the person shall pay, and
  - c. An explanation of the person's hearing rights specified in ~~Article 8 of this Chapter~~ 9 A.A.C. 34.
- 2. If denied, ~~R9-22-1501(F)(3)~~ R9-22-1501(G)(3) applies.

**R9-22-1905. Reporting and Verifying Changes**

An applicant or member shall report changes, as described under ~~R9-22-1501(G)(3), (4), (5), and (6)~~ R9-22-1501(H), to the

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Administration, the following changes:

1. ~~Change of address;~~
2. ~~Change in income;~~
3. ~~Change in employment status;~~
4. ~~Change in school attendance if under age 22;~~
5. ~~Change in Arizona state residency;~~
6. ~~Change in first- or third-party liability which may contribute to the payment of all or a portion of the person's medical costs;~~
7. ~~Admission to a public institution;~~
8. ~~Admission to an Institution for Mental Disease;~~
9. ~~Improvement in the person's medical condition;~~
10. ~~Death;~~
11. ~~Change in U.S. citizenship or immigrant status;~~
12. ~~Change in disability status;~~
13. ~~Change in impairment related work or other expenses; or~~
14. ~~Any other change that may affect the member or applicant's eligibility.~~

**R9-22-1907. Notice of Adverse Action Requirements**

- A. The requirements under R9-22-1501(J)(1) apply.
- B. Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
  1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
  2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that this must be the result of supplying that information and a the member signs a written statement waiving advance notice;
  3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
  4. A member has been admitted to a public institution where a person is ineligible for coverage;
  5. A member has been approved for Medicaid in another state; or
  6. The Administration receives information confirming the death of a member.

**R9-22-1908. Request for Hearing**

An applicant or member may request a hearing under 9 A.A.C. 34. Article 8 of this Chapter for the following adverse actions:

1. ~~The determination of a premium amount under R9-22-1920, and~~
2. ~~Actions listed in R9-22-803.~~

**R9-22-1909. ~~Social Security Number~~ Conditions of Eligibility**

As a condition of eligibility, an applicant shall furnish a valid SSN.

The Administration requires the following conditions be met by an applicant or member in order to qualify for the Freedom to Work program:

1. Furnish a valid SSN;
2. Be a resident of Arizona;
3. Be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
  - a. The unearned income of the applicant or member shall be disregarded,
  - b. The income of a spouse or other family members shall be disregarded, and
  - c. The deduction for a minor child shall not apply;
6. Comply with the member responsibility provisions under R9-22-1502(D) and (F).

**R9-22-1910. ~~State Residency~~ Repealed**

~~As a condition of eligibility, an applicant or member shall be a resident of Arizona.~~

**R9-22-1911. ~~Citizenship and Immigrant Status~~ Repealed**

~~As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).~~

**R9-22-1912. ~~Age Repealed~~**

~~As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.~~

**R9-22-1913. ~~Premium Requirements~~**

~~As a condition of eligibility, an applicant or member shall pay the premium required under R9-22-1920.~~

**~~A. An applicant or member must comply with the following premium requirements:~~**

- ~~1. Pay the premium required under subsection (B).~~
- ~~2. Not have any unpaid premiums for more than one month's premium amount.~~

**~~B. The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:~~**

- ~~1. A member who has countable income:
  - ~~a. Under \$500, the monthly premium payment shall be \$0.~~
  - ~~b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.~~~~
- ~~2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.~~

**R9-22-1914. ~~Income Repealed~~**

~~As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:~~

- ~~1. The unearned income of the applicant or member shall be disregarded;~~
- ~~2. The income of a spouse or other family members shall be disregarded; and~~
- ~~3. The deduction for a minor child shall not apply.~~

**R9-22-1915. ~~Institutionalized Person~~**

~~A person is not eligible for AHCCCS medical coverage if the person is:~~

- ~~1. An inmate of a public institution if federal financial participation (FFP) is not available, or~~
- ~~2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by with CMS.~~

**R9-22-1916. ~~Non-Payment of Premium Repealed~~**

~~As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-22-1920.~~

**R9-22-1917. ~~Applicant and Member Responsibility Repealed~~**

~~As a condition of eligibility, an applicant or member shall comply with the provisions under R9-22-1502(D) and R9-22-1502(F).~~

**R9-22-1919. ~~Additional Eligibility Criteria for the Medically Improved Group~~**

~~As a condition of eligibility for the Medically Improved Group, a member shall:~~

- ~~1. Be employed. Under this Section, employed means an individual who:
  - ~~a. Earns at least the minimum wage and works at least 40 hours per month, or~~
  - ~~b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.~~~~
- ~~2. Cease to be eligible for medical coverage under R9-22-1918 or a similar Basic Coverage Group program administered by another state because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and~~
- ~~3. Continues to have a severe medically determinable impairment, as determined under regulations of the federal government.~~

**R9-22-1920. ~~Premium Amount Repealed~~**

~~The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:~~

- ~~1. A member who has countable income:
  - ~~a. Under \$500, the monthly premium payment shall be \$0.~~
  - ~~b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.~~~~
- ~~2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ARIZONA LONG-TERM CARE SYSTEM

[R08-309]

PREAMBLE

**1. Sections Affected**

**Rulemaking Action**

R9-28-1301	Amend
R9-28-1302	Amend
R9-28-1303	Amend
R9-28-1304	Amend
R9-28-1305	Amend
R9-28-1307	Amend
R9-28-1308	Amend
R9-28-1309	Repeal
R9-28-1309	New Section
R9-28-1310	Repeal
R9-28-1311	Repeal
R9-28-1312	Repeal
R9-28-1313	Amend
R9-28-1314	Repeal
R9-28-1315	Repeal
R9-28-1316	Amend
R9-28-1317	Repeal
R9-28-1318	Repeal
R9-28-1319	Repeal
R9-28-1320	Amend
R9-28-1322	Repeal

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 36-2901, 36-2903.01(F)

Implementing statute: A.R.S. §§ 36-2903.01(F), 36-2929

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 3501, September 5, 2008

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson St., Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Administration proposes the following changes to this rulemaking as recommended and approved by the Governor's Regulatory Review Council on August 5, 2008, in a Five-year Review Report.

**6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

Notices of Proposed Rulemaking

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, and the Administration will be minimally impacted by the changes to the rule language. The areas requiring revision are for clarity as a result of a Five-year Rule Review approved by the Governor's Regulatory Review Council.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson St., Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS web site [www.azahcccs.gov](http://www.azahcccs.gov) the week of September 15, 2008. Please send written comments to the above address by 5:00 p.m., November 10, 2008. E-mail comments will also be accepted during this time-frame.

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: November 10, 2008  
Time: 10:00 a.m.  
Location: AHCCCS  
701 E. Jefferson St.  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: November 10, 2008  
Time: 10:00 a.m.  
Location: ALTCS: Arizona Long-term Care System  
1010 N. Finance Center Drive, Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: November 10, 2008  
Time: 10:00 a.m.  
Location: ALTCS: Arizona Long-term Care System  
3480 E. Route 66  
Flagstaff, AZ 86004  
Nature: Public Hearing

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ARIZONA LONG-TERM CARE SYSTEM

Section

- R9-28-1301. General Freedom to Work Requirements
- R9-28-1302. General Administration Requirements
- R9-28-1303. Application for Coverage
- R9-28-1304. Notice of Approval or Denial
- R9-28-1305. Reporting and Verifying Changes
- R9-28-1307. Notice of Adverse Action Requirements
- R9-28-1308. Request For Hearing
- R9-28-1309. ~~Social Security Number~~ Conditions of Eligibility
- R9-28-1310. ~~State Residency~~ Repealed
- R9-28-1311. ~~Citizenship and Immigrant Status~~ Repealed
- R9-28-1312. ~~Age~~ Repealed
- R9-28-1313. Premium Requirements
- R9-28-1314. ~~Income~~ Repealed
- R9-28-1315. ~~Living Arrangement~~ Repealed
- R9-28-1316. Institutionalized Person
- R9-28-1317. ~~Medical Eligibility~~ Repealed
- R9-28-1318. ~~Non Payment of Premium~~ Repealed
- R9-28-1319. ~~Applicant and Member Responsibility~~ Repealed
- R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group
- R9-28-1322. ~~Premium Amount~~ Repealed

ARTICLE 13. FREEDOM TO WORK

**R9-28-1301. General Freedom to Work Requirements**

~~Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), the Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:~~

- ~~1. At least 16 years of age, but less than 65 years of age;~~
- ~~2. Employed; and~~
- ~~3. Not income or resource eligible under A.R.S. § 36-2934.~~

The Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, and A.A.C. R9-22-1901.

**R9-28-1302. General Administration Requirements**

~~The Administration shall comply with the confidentiality rule under R9-28-401(H), Title VI compliance rule under R9-28-401(I) and transitional rule under R9-28-411(E). Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified A.A.C. R9-22-512(C).~~

**R9-28-1303. Application for Coverage**

- A. A person may apply by submitting ~~a signed~~ an application to an Administration office.
- B. The application date is the date the application is received at an Administration office.
- C. The provisions of A.A.C. ~~R9-22-1405(B), (C), and (E)~~ R9-22-1406(B) and (D) apply to this Section.
- D. An applicant or representative who files an application may withdraw the application for coverage either orally or in writing. The Administration shall send an applicant withdrawing an application a denial notice under R9-28-1304.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

**R9-28-1304. Notice of Approval or Denial**

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

1. If approved, the notice shall contain:
  - a. The effective date of eligibility,
  - b. The amount the person shall pay, and
  - c. An explanation of the person's hearing rights specified in ~~Article 8 of this Chapter~~ 9 A.A.C. 34.
2. If denied, ~~R9-28-401(G)(2)~~ R9-28-401.01(G)(2) applies.



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**R9-28-1305. Reporting and Verifying Changes**

An applicant or member shall report changes, as described under ~~R9-28-411(A)(2), (3), (4), and (5) R9-28-411(A)~~, to the Administration ~~the following changes, including any changes in the spouse's income that may affect the share of cost.~~

1. ~~Change of address;~~
2. ~~Change in income;~~
3. ~~Change in employment status;~~
4. ~~Change in school attendance if under age 22;~~
5. ~~Change in Arizona state residency;~~
6. ~~Change in first or third party liability which may contribute to the payment of all or a portion of the person's medical costs;~~
7. ~~Admission to a public institution;~~
8. ~~Admission to an Institution for Mental Disease;~~
9. ~~Improvement in the person's medical condition;~~
10. ~~Death;~~
11. ~~Change in U.S. citizenship or immigrant status;~~
12. ~~Change in disability status;~~
13. ~~Change in spouse's income that may affect the share of cost;~~
14. ~~Change in impairment related work or other expenses; or~~
15. ~~Any other change that may affect the member or applicant's eligibility or share of cost.~~

**R9-28-1307. Notice of Adverse Action Requirements**

- A. The requirements under R9-28-411(D)(1) apply.
- B. Advance notice of a change in eligibility, share of cost, or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to:
  1. Discontinue eligibility,
  2. Increase a person's share-of-cost;
  3. Increase the premium amount, or
  4. Reduce benefits from ALTCS to acute care services.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
  1. A member provides a clearly written statement, signed by that member, that services are no longer wanted;
  2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that this must be the result of supplying that information and ~~a member~~ signs a written statement waiving advance notice;
  3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
  4. A member has been admitted to a public institution where a person is ineligible for coverage;
  5. A member has been approved for Medicaid in another state; or
  6. The Administration receives information confirming the death of a member.

**R9-28-1308. Request for Hearing**

An applicant or member may request a hearing under 9 A.A.C. 34, Article 8 of this Chapter for the following adverse actions:

1. ~~The determination of a premium amount under R9-28-1322, and~~
2. ~~Actions listed in R9-28-803.~~

**R9-28-1309. ~~Social Security Number~~ Conditions of Eligibility**

~~As a condition of eligibility, an applicant shall furnish a valid SSN.~~

The Administration requires the following conditions be met by an applicant or member in order to qualify for the Freedom to Work program:

1. Furnish a valid SSN;
2. Be a resident of Arizona;
3. Be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
  - a. The unearned income of the applicant or member shall be disregarded,
  - b. The income of a spouse or other family members shall be disregarded, and
  - c. The deduction for a minor child shall not apply;
6. Reside in a living arrangement defined under R9-28-406(A);

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7. Be determined as disabled by meeting the medical criteria under Article 3 of this Chapter.

8. Comply with the member responsibility provisions under A.A.C. R9-22-1502(D) and (F).

**R9-28-1310. ~~State Residency Repealed~~**

~~As a condition of eligibility, an applicant or member shall be a resident of Arizona.~~

**R9-28-1311. ~~Citizenship and Immigrant Status Repealed~~**

~~As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).~~

**R9-28-1312. ~~Age Repealed~~**

~~As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.~~

**R9-28-1313. ~~Premium Requirements~~**

~~As a condition of eligibility, an applicant or member shall pay the premium required under R9-28-1322.~~

**A.** An applicant or member must comply with the following premium requirements:

1. Pay the premium required under subsection (B).

2. Not have any unpaid premiums that exceed the premium amount for one month.

**B.** The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:

1. A member who has countable income:

a. Under \$500, the monthly premium payment shall be \$0.

b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.

2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

**R9-28-1314. ~~Income Repealed~~**

~~As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:~~

- ~~1. The unearned income of the applicant or member shall be disregarded;~~
- ~~2. The income of a spouse or other family members shall be disregarded, and~~
- ~~3. The deduction for a minor child shall not apply.~~

**R9-28-1315. ~~Living Arrangement Repealed~~**

~~As a condition of eligibility, an applicant or member shall reside in a living arrangement defined under R9-28-406(A).~~

**R9-28-1316. Institutionalized Person**

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or
2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by with CMS.

**R9-28-1317. ~~Medical Eligibility Repealed~~**

~~As a condition of eligibility, an applicant or member shall meet the medical criteria under Article 3 of this Chapter.~~

**R9-28-1318. ~~Non-Payment of Premium Repealed~~**

~~As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-28-1322.~~

**R9-28-1319. ~~Applicant and Member Responsibility Repealed~~**

~~As a condition of eligibility, an applicant or member shall comply with the provisions under A.A.C. R9-22-1502(D) and R9-22-1502(F).~~

**R9-28-1320. ~~Additional Eligibility Criteria for the Basic Coverage Group~~**

~~As a condition of eligibility, an applicant or member shall meet the following eligibility criteria:~~

- ~~1. Disabled. An applicant or member shall meet the requirements under Article 3 of this Chapter.~~
- ~~2. Employed. As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant's or member's work.~~

**R9-28-1322. ~~Premium Amount Repealed~~**

~~The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:~~

- ~~1. A member who resides in a HCBS setting under R9-28-406(A)(2) and has countable income:~~
  - ~~a. Under \$500, the monthly premium payment shall be \$0.~~
  - ~~b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.~~
- ~~2. The premium for a member who resides in a HCBS setting under R9-28-406(A)(2) shall be increased by \$5 for each~~

Notices of Proposed Rulemaking

~~\$250 increase in countable income above \$750.~~

3. ~~For a member living in a medical institution for a full calendar month, the monthly premium payment shall be \$0.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R08-306]

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| Article 10                         | New Article                     |
| R12-4-1001                         | New Section                     |
| R12-4-1002                         | New Section                     |
| R12-4-1003                         | New Section                     |
| R12-4-1004                         | New Section                     |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 17-231(A)(1)  
Implementing statute: A.R.S. §§ 28-1175(B) and 28-1179(C)(1)
- 3. List of all previous notices appearing in the Register addressing the proposed rules:**  
Notice of Rulemaking Docket Opening: 14 A.A.R. 3568, September 12, 2008
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Joe Sacco  
Address: Arizona Game and Fish Department  
5000 W. Carefree Hwy.  
Phoenix, AZ 85086  
Telephone: (623) 236-7931  
Fax: (623) 236-7945  
E-mail: jsacco@azgfd.gov
- 5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**  
In its 2008 session, the legislature amended A.R.S. § 28-1175(B) to authorize the Director of the Game and Fish Department to determine a reasonable fee that the provider of an approved educational course of instruction in off-highway vehicle safety and environmental ethics may collect from a participant in the course. The Commission is placing in rule the fee determined by the Director.  
  
The change to A.R.S. § 28-1175(B) also specified that the Department may conduct or approve an educational course of instruction in off-highway vehicle safety and environmental ethics. This rulemaking specifies the minimum standards for a course to be approved and the procedure for obtaining approval of the course from the Department.  
  
A new provision, A.R.S. § 28-1179, authorized the Commission to make rules implementing off-highway vehicle equipment requirements. The Commission is making a rule to implement the sound-level requirement specified in statute.
- 6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**

Notices of Proposed Rulemaking

The rulemaking will have an economic impact on the provider of an educational course of instruction that is approved by the Department. A course provider is not required to have the course approved by the Department. However, there is an economic advantage to obtaining Departmental approval because under A.R.S. § 28-1174(G), a judge may require a person who violates the statute to take an approved course. The provider of an approved course may also charge the course fee established in this rulemaking. Because of the course fee, the rulemaking will have economic impact on those who participate in an approved course, either voluntarily or under court order.

In determining the maximum fee that the provider of an approved educational course of instruction in off-highway vehicle safety and environmental ethics may charge, the Director reviewed fees currently charged for related courses. For example, the Motorcycle Safety Foundation currently charges \$195 for dirt bike training. The ATV Safety Institute charges \$125. The Director set the maximum fee at an amount believed to be consistent with fees currently charged, allowing for market competition among providers and enabling providers to increase the fee over time.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Joe Sacco  
Address: Arizona Game and Fish Department  
5000 W. Carefree Hwy.  
Phoenix, AZ 85086  
Telephone: (623) 236-7931  
Fax: (623) 236-7945  
E-mail: jsacco@azgfd.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

An oral proceeding regarding the proposed rules will be held as follows:

Date: Friday, December 5, 2008  
Time: 8:00 a.m. to 5:00 p.m.  
Location: Francisco Grande Hotel  
26000 W. Gila Bend Hwy.  
Casa Grande, AZ 85293

The rulemaking record will close at 5:00 p.m. on December 5, 2008.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 10. OFF-HIGHWAY VEHICLES**

Section

R12-4-1001. Minimum Standards for an Approved Educational Course  
R12-4-1002. Course-approval Procedure  
R12-4-1003. Fee for an Approved Course  
R12-4-1004. Off-highway Vehicle Sound-level Requirements

**ARTICLE 10. OFF-HIGHWAY VEHICLES**

**R12-4-1001. Minimum Standards for an Approved Educational Course**

The Department shall approve an educational course of instruction in off-highway vehicle safety and environmental ethics only if the course meets the following minimum standards:

1. Course content. The course provides information regarding:

Notices of Proposed Rulemaking

- a. Use of an off-highway vehicle in a manner that minimizes air pollution;
  - b. Use of an off-highway vehicle in a manner that does not harm the natural terrain, plants, or animals;
  - c. Off-highway vehicle safety;
  - d. Responsibilities of users of off-highway vehicles; and
  - e. Statutes and rules regarding use of off-highway vehicles including A.R.S. §§ 28-1174, 28-1177, and 28-1179; and
2. Course procedures. The course provider shall:
    - a. Use a written examination to measure the extent to which a participant learned the course content; and
    - b. Provide a certificate of completion to a participant who receives a score of 75% or above on the written examination or that demonstrates an equivalent proficiency.

**R12-4-1002. Course-approval Procedure**

- A. To obtain approval of an educational course of instruction in off-highway vehicle safety and environmental ethics, the course provider shall submit an application to the Department using a form that is available from the Department. The provider shall include the following information on the application form:
  1. Name of provider;
  2. If the provider is not an individual, name of the individual who will maintain contact with the Department;
  3. Business address; and
  4. Business and contact telephone numbers and fax number.
- B. In addition to the application form required under subsection (A), a provider shall include a copy of the following:
  1. The curriculum that will be used to provide the educational course;
  2. Any materials that will be provided to course participants;
  3. The written examination required under R12-4-1001(2)(a); and
  4. The certificate of completion required under R12-4-1001(2)(b).
- C. Within 60 days after receiving the materials listed in subsections (A) and (B), the Department shall provide written notice to the provider about whether the educational course of instruction in off-highway vehicle safety and environmental ethics is approved or disapproved.
- D. The provider of an educational course of instruction that is not approved by the Department may appeal the decision under A.R.S. Title 41, Chapter 6, Article 10.

**R12-4-1003. Fee for an Approved Course**

Under A.R.S. § 28-1175(B), the provider of an approved educational course of instruction in off-highway vehicle safety and environmental ethics may collect a fee from each participant that:

1. Is reasonable and commensurate for the course, and
2. Does not exceed \$250.

**R12-4-1004. Off-highway Vehicle Sound-level Requirements**

- A. A peace officer who has reason to believe that an off-highway vehicle is being operated in violation of A.R.S. § 28-1179(A)(3) may direct the operator to submit the off-highway vehicle to an onsite test to measure the vehicle's noise level.
- B. If a peace officer directs the operator of an off-highway vehicle to submit the vehicle to an onsite test to measure the vehicle's noise level, the operator shall allow the off-highway vehicle and associated equipment to be tested. If the peace officer believes that multiple tests of the off-highway vehicle's noise level are necessary to ensure that an accurate measure is obtained, the operator shall allow multiple tests.
- C. If it is determined that an off-highway vehicle is being operated in violation of A.R.S. § 28-1179(A), the operator of the off-highway vehicle shall:
  1. Immediately stop operating the vehicle; and
  2. Ensure that the vehicle is not operated again until it can be operated in compliance with A.R.S. § 28-1179(A).

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 10. DEPARTMENT OF REVENUE  
GENERAL ADMINISTRATION

[R08-297]

PREAMBLE

1. **Sections Affected**  
R15-10-122
- Rulemaking Action**  
Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 42-1005  
Implementing statutes: A.R.S. §§ 41-1061, 42-1251
3. **A list of all previous notices appearing in the Register addressing the proposed rules:**  
Notice of Rulemaking Docket Opening: 14 A.A.R. 3811, October 3, 2008 (*in this issue*)
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Rick Swenson, Tax Analyst  
Address: Tax Policy and Research Division  
Department of Revenue  
1600 W. Monroe St.  
Phoenix, AZ 85007  
Telephone: (602) 716-6452  
Fax: (602) 716-7995  
E-mail: RSwenson@azdor.gov  
Please visit the ADOR web site to track the progress of these rules and other agency rulemaking matters at [www.azdor.gov](http://www.azdor.gov).
5. **An explanation of the rules, including the agency's reasons for initiating the rules:**  
At the request of the Department's Hearing Office, the Department is amending this rule to allow the use of a recording device other than a tape recorder to record oral hearings and to make copies of recorded oral hearings. The rule should not require a specific type of recording device.
6. **A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
7. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
8. **The preliminary summary of the economic, small business, and consumer impact:**  
The changes in the rule are intended to allow the Hearing Office to be efficient in the administration of hearing procedures. Taxpayers and tax practitioners are not charged to obtain a copy of a recorded oral hearing from the Hearing Office. Taxpayers and tax practitioners could incur minimal costs in obtaining copies of the amended rule.
9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**  
Name: Rick Swenson, Tax Analyst  
Address: Tax Policy and Research Division  
Department of Revenue  
1600 W. Monroe St.  
Phoenix, AZ 85007  
Telephone: (602) 716-6452

Notices of Proposed Rulemaking

Fax: (602) 716-7995

E-mail: RSwenson@azdor.gov

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

No oral proceeding is scheduled. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item 4 within 30 days after publication of this notice.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 15. REVENUE**

**CHAPTER 10. DEPARTMENT OF REVENUE  
GENERAL ADMINISTRATION**

**ARTICLE 1. APPEAL PROCEDURES**

Section

R15-10-122. Transcripts and Records

**ARTICLE 1. APPEAL PROCEDURES**

**R15-10-122. Transcripts and Records**

- A.** The hearing officer shall ~~tape~~ record all oral hearings. Upon request of any party to the hearing, the hearing office shall provide a copy of the ~~tape~~ recording of the hearing, without charge, to the requesting party.
- B.** A party to an oral hearing may:
  1. Transcribe the hearing at the party's own expense; and
  2. Cite a transcript in any proceeding, if the party provides a full copy of the transcript to the opposing party and the hearing officer.
- C.** The petitioner shall not remove the records and files of the Department from the Department for use as evidence or other purposes. The Department shall, as permitted by law, provide a certified copy of Department records and files as requested by the petitioner for use in the proceedings. The Department shall provide the copy at a reasonable charge not to exceed the commercial rate for the service.